

# EXHIBIT 10

Ryan Voigt

August 03, 2017

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

JEFFREY FADNESS, )  
Plaintiff, )  
)  
)  
)  
) CIVIL ACTION NO.  
VS. ) 1:17-cv-00206-LY  
)  
)  
)  
CHARTER COMMUNICATIONS, )  
INC., )  
Defendant )

\*\*\*\*\*

ORAL DEPOSITION OF

RYAN VOIGT

AUGUST 3, 2017

\*\*\*\*\*

ORAL DEPOSITION OF RYAN VOIGT, produced as a  
witness at the instance of the Plaintiff, and duly  
sworn, was taken in the above-styled and numbered cause  
on August 3, 2017, from 9:57 a.m. to 1:19 p.m., before  
Christi Sanford, CSR in and for the State of Texas,  
Registered Professional Reporter and Certified Realtime  
Reporter, reported by machine shorthand, at the offices  
of Kim Tindall & Associates, 2550 South IH-35,  
Suite 110, Austin, Texas, pursuant to the Federal Rules  
of Civil Procedure and the provisions stated on the  
record.

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Pages 2 to 5

<p>1 APPEARANCES</p> <p>2 For the Plaintiff:</p> <p>3 Jeffrey A. Goldberg</p> <p>4 The Law Office of Jeffrey A. Goldberg</p> <p>5 15303 Huebner Road, Building 13</p> <p>6 San Antonio, Texas 78248</p> <p>7 (210) 690-2200</p> <p>8 jeff@jeffreylaw.com</p> <p>9 For the Defendant:</p> <p>10 Brooke S. Waldrep</p> <p>11 Schmoey Reinhard, LLP</p> <p>12 17806 IH-10 West, Suite 400</p> <p>13 San Antonio, Texas 78257</p> <p>14 (210) 447-8033</p> <p>15 bwaldrep@sr-llp.com</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 2</p> <p>1 RYAN VOIGT,</p> <p>2 having been first duly sworn, testified as follows:</p> <p>3 EXAMINATION</p> <p>4 BY MR. GOLDBERG:</p> <p>5 Q. Would you state your name for the record and</p> <p>6 spell your last name.</p> <p>7 A. Ryan Voigt, spelled V, as in Victor, -o-i-g-t.</p> <p>8 Q. Mr. Voigt, my name is Jeff Goldberg. I</p> <p>9 represent Mr. Jeff Fadness in a lawsuit against Charter</p> <p>10 Communications, Inc. We have never nor spoken before</p> <p>11 today, have we?</p> <p>12 A. No.</p> <p>13 Q. Have you ever had your deposition taken before?</p> <p>14 A. No.</p> <p>15 Q. I'll be asking the questions. You'll be</p> <p>16 providing the answers. And the court reporter takes</p> <p>17 down all of the information that we talk about. If you</p> <p>18 do not hear my question or don't understand my question,</p> <p>19 please ask me to rephrase it so that you hear it and</p> <p>20 that you understand it. Okay?</p> <p>21 A. Okay.</p> <p>22 Q. If you answer my question, I'll assume that you</p> <p>23 heard it and understood it; is that fair?</p> <p>24 A. That's fair.</p> <p>25 Q. Please wait for me to finish my question before</p>
<p>1 INDEX</p> <p>2</p> <p>3 Appearances 2</p> <p>4 WITNESS: RYAN VOIGT</p> <p>5 Examination by Mr. Goldberg..... 4</p> <p>6 Signature and Changes..... 126</p> <p>7 Reporter's Certificate..... 128</p> <p>8 EXHIBITS</p> <p>9</p> <p>10 NUMBER DESCRIPTION PAGE</p> <p>11 Exhibit 1 Ryan Voigt E-mails..... 50</p> <p>12 Exhibit 2 E-mail string, top one from</p> <p>13 Ryan Voigt to Jeffrey Fadness,</p> <p>14 1/3/17..... 102</p> <p>15 Exhibit 3 Performance Improvement/</p> <p>16 Corrective Action Form..... 103</p> <p>17 Exhibit 4 Zip Codes (AE Sales Territories) 103</p> <p>18 Exhibit 5 Additional Documents Maintained</p> <p>19 by Ryan Voigt..... 104</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p> <p>1 you give your answer because the court reporter is</p> <p>2 taking down the information. All right?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Finally, please give me verbal responses to my</p> <p>5 questions and not a nod of the head or any other gesture</p> <p>6 because that is difficult to translate. Okay?</p> <p>7 A. Understood.</p> <p>8 Q. All right. Did you review any documents to</p> <p>9 prepare for your deposition today?</p> <p>10 A. Yes, yesterday briefly.</p> <p>11 Q. Identify what documents you reviewed to prepare</p> <p>12 for your deposition today.</p> <p>13 A. Just some e-mails that Jeff and I had gone back</p> <p>14 and forth with.</p> <p>15 Q. Was anyone present when you reviewed those</p> <p>16 e-mails?</p> <p>17 A. Yes, Brooke was.</p> <p>18 Q. Okay. Ms. Waldrep, the attorney for the</p> <p>19 company?</p> <p>20 A. Correct.</p> <p>21 Q. She's not your personal attorney, is she?</p> <p>22 A. No.</p> <p>23 Q. Was anyone else present when you reviewed these</p> <p>24 e-mails --</p> <p>25 A. No.</p>
<p>Kim Tindall and Associates, LLC 16414 San Pedro, Suite 900</p> <p>210-697-3400</p>	<p>Page 4</p> <p>Page 5</p> <p>San Antonio, Texas 78232</p> <p>210-697-3408</p>

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<p style="text-align: right;">Page 14</p> <p>1 A. Yes. October 20th, 2001.</p> <p>2 Q. Very good. And is that the only marriage</p> <p>3 you've had?</p> <p>4 A. Yes.</p> <p>5 Q. Have you had any relatives that work for</p> <p>6 Charter Communications or its predecessor, Time Warner?</p> <p>7 A. No.</p> <p>8 Q. What is your current position at Charter</p> <p>9 Communications?</p> <p>10 A. Sales manager for cable operations.</p> <p>11 Q. How long have you had that position?</p> <p>12 A. For one year and eight months.</p> <p>13 Q. That would take us back to what month and year?</p> <p>14 A. December of -- it was either December or</p> <p>15 January of 2015. It was one of those. I don't recall</p> <p>16 the exact start date. Is that right?</p> <p>17 Q. Well, I'm not real good at math, but I think</p> <p>18 that takes us back to January of 2016, perhaps.</p> <p>19 A. Yes, 2016. I apologize.</p> <p>20 Q. That's no problem.</p> <p>21 A. Yeah.</p> <p>22 Q. So in January of 2016, it was still Time Warner</p> <p>23 Cable, right?</p> <p>24 A. Yes.</p> <p>25 Q. And around May or June of 2016 is when Charter</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Okay. Caroline Guzman, Ron Doyle, Michael</p> <p>2 Gates.</p> <p>3 Q. Gates or Yates?</p> <p>4 A. Gates with a G. John Sigg.</p> <p>5 Q. How do you spell his last name?</p> <p>6 A. S-i-g-g. Kathy Guerrero, Jose Rodriguez,</p> <p>7 Steven Moore, Moore with an E.</p> <p>8 Q. So I count seven sales representatives that</p> <p>9 currently report to you.</p> <p>10 A. That's correct.</p> <p>11 Q. And has Mr. Fadness been replaced?</p> <p>12 A. No, because I still have one opening on my</p> <p>13 team.</p> <p>14 Q. Just for clarity, Mr. Fadness reported to you,</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. All right. Since July of 2016, have there been</p> <p>18 any changes in the salesforce that has reported to you?</p> <p>19 A. Yes.</p> <p>20 Q. Can you explain those for me?</p> <p>21 A. Yes. Kathy Guerrero replaced a young lady by</p> <p>22 the name of Meghan Franco. Jose Rodriguez replaced</p> <p>23 Frank Krafka.</p> <p>24 Q. How do you spell his last name?</p> <p>25 A. K-r-a-f-k-a. And Ron Doyle replaced Miklynn</p>
<p style="text-align: right;">Page 15</p> <p>1 acquired Time Warner?</p> <p>2 A. That's correct.</p> <p>3 Q. Okay.</p> <p>4 A. Yes.</p> <p>5 Q. So prior to January 2016, what was your title?</p> <p>6 A. Account executive.</p> <p>7 Q. How long were you an account executive with</p> <p>8 Time Warner?</p> <p>9 A. From June -- from my initial start date up</p> <p>10 until the point I became a manager.</p> <p>11 Q. So that would be from June -- excuse me,</p> <p>12 July 30th, 2010?</p> <p>13 A. Uh-huh.</p> <p>14 Q. Is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. Up until January 2016?</p> <p>17 A. Correct.</p> <p>18 Q. And as the sales manager of cable operations,</p> <p>19 your current position and title, do you have a sales</p> <p>20 staff that reports to you?</p> <p>21 A. Yes.</p> <p>22 Q. Can you identify for me who your sales staff</p> <p>23 that currently reports to you?</p> <p>24 A. Do you want their names?</p> <p>25 Q. That would be very good, yes, sir.</p>	<p style="text-align: right;">Page 17</p> <p>1 Spencer.</p> <p>2 Q. How do you spell Miklynn?</p> <p>3 A. It's M-i-k-l-y-n-n. And Spencer is her last</p> <p>4 name. And that's it.</p> <p>5 Q. Are you sure?</p> <p>6 A. Pretty sure.</p> <p>7 Q. Have there been any other changes in your</p> <p>8 salesforce that reported to you since July 2016 where</p> <p>9 the employee has not been replaced?</p> <p>10 A. Any changes? What do you mean by that?</p> <p>11 Q. Let me be more specific. Who's Summer Sturm?</p> <p>12 A. Yes, that's right. Summer resigned. She</p> <p>13 resigned, I guess, in May.</p> <p>14 Q. May of what year?</p> <p>15 A. May of this year, 2017.</p> <p>16 Q. Did you just forget about her?</p> <p>17 A. I just forgot about her. I did.</p> <p>18 Q. What was the nature of your relationship with</p> <p>19 Ms. Sturm?</p> <p>20 A. I was her manager.</p> <p>21 Q. It was strictly professional?</p> <p>22 A. Strictly professional.</p> <p>23 Q. Why did she resign?</p> <p>24 A. She just wasn't performing and she was -- she</p> <p>25 wasn't meeting the standard of performance. And she</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q. What were the expectations for AE1 and AE2 2 sales representatives on a daily and weekly basis? 3 A. Sure. We have many different avenues to obtain 4 revenue. You have referral partners that you network 5 with. You have field time that you go out. You have 6 time on the phone that you call folks. You have 7 follow-up time for customers that you ran appointments 8 with that you may follow up with. And then you have 9 your daily appointments that you run face-to-face that 10 you've set. Either the week before or sometimes that 11 week you'll set an appointment and run it that week. 12 Q. Okay. Were there expectations on going door to 13 door, cold calling, knocking on -- 14 A. Yeah. That was a -- that's a component of what 15 we did on a daily basis. You know, when you -- when you 16 first start at the company and you don't have any 17 business referred to you, how are you going to obtain 18 new business? You're either going to cold call on the 19 phone or you're going to go out in the field and knock 20 on doors. But that was -- it's always been a 21 recommended component of how to -- how to get new 22 business when you're training and trying to coach folks 23 on hitting their target. 24 Q. And was that a criteria which you passed on to 25 your sales representatives?</p>	<p style="text-align: right;">Page 28</p> <p>1 I guess, is what I'm trying to say or you're not going 2 to get put on plan for -- for not getting a sale out in 3 the field. It's strictly a numbers-based standard of 4 performance. 5 Q. Would that be the hope or expectation, though, 6 to get a sale by knocking on the door? 7 A. Sure. Yes. 8 Q. Because the sales representatives would 9 actually take, you said, the contracts with them? 10 A. Well, they -- we don't have contracts. They 11 would take what they call a one call close sheet. And 12 if the customer is interested, they would present a 13 service agreement at the time if the customer wanted to 14 purchase. 15 Q. So the one call close sheet was in the AE1 or 16 AE2 sales representative's possession when they would go 17 knocking door to door? 18 A. Some of them take them. Some of them don't. 19 So I don't -- I don't know. I'll leave it up to them. 20 Some of them are there strictly just to get a 21 decision-maker's name or set an appointment. So I leave 22 it up to them whether or not they want to take a one 23 call close form with them or not. 24 Q. Okay. And so do you put on trainings for the 25 sales representatives as to how to do door knocking and</p>
<p style="text-align: right;">Page 27</p> <p>1 A. Criteria being like -- 2 Q. Or your expectation. 3 A. Yes, I'd say so. 4 Q. And as regards to cold calls in the field, 5 knocking on doors, going door to door, did you have any 6 goals or expectations in that regard? 7 A. Well, it was simply a numbers game, you know, 8 and it was really up to the rep to determine how many 9 doors they needed to knock on to obtain a new contract 10 or a new deal. Of course, we set some standards for 11 them that they could either abide by or not abide by. 12 But, you know, it's my job to help coach, so I'm always 13 going to recommend, you know, that you get out in the 14 field and hit as many doors as you can if you don't have 15 appointments set or you don't have referral partners or 16 any sales in your pipeline whatsoever. You know, you've 17 got to start somewhere. 18 Q. So was the goal or expectation to obtain a new 19 contract or a new deal when they would knock door to 20 door? 21 A. It happens all the time. But, no, it wasn't 22 really a -- you know, we didn't expect everybody on a 23 daily basis to go out and get a contract. Of course, 24 they take them with them, but it's not -- I guess it's 25 not -- you're not going to get in trouble if you don't,</p>	<p style="text-align: right;">Page 29</p> <p>1 prospecting? 2 A. You mean do I go out in the field with them? 3 That's the training. Yes. 4 Q. Okay. 5 A. Yes. 6 Q. And so would you go around with the sales 7 representatives door to door, cold call knocking? 8 A. Uh-huh. 9 Q. Is that a yes? 10 A. Yes. Yes. 11 Q. And what would you -- how would you train that 12 representative when you're going up to a building cold 13 calling to solicit business? 14 A. We usually would go to a building that we have 15 current customers in. We'd visit them, you know, let 16 them know who the new rep was because we were assigned 17 territory zip codes. So they would introduce 18 themselves. And then we would, you know, go to the next 19 door, introduce ourselves, drop off a business card, let 20 them know what services we had and if they were 21 interested to contact us. Or if we're running an 22 appointment in a certain area, we would -- for that day, 23 we would go introduce ourselves to the surrounding 24 businesses after that appointment is complete. 25 Q. Okay. So the cold call door-to-door</p>

<p style="text-align: right;">Page 34</p> <p>1 for you, including Mr. Fadness, would walk into a  2 building, their job was not to walk into an existing  3 customer, it was to call on new potential customers?  4 A. Yes. Uh-huh.  5 Q. And is there anything else about the meeting  6 that you would have with the prospective new customer  7 that you would discuss or share that you haven't told me  8 about?  9 A. No.  10 Q. The one call close sheet that you reference, is  11 that something that you suggest or recommend that the  12 sales reps have on them in case there is a potential  13 close of a business transaction on a cold call?  14 A. Yes.  15 Q. So, I guess, do you tell them, Make sure you  16 have your one call close sheet before you go in here,  17 because you never know, this person may want to close  18 the deal?  19 A. Actually, I don't. I leave it up to them.  20 I --  21 Q. So do you just tell the sales rep, By the way,  22 this one call close sheet is available if you want to  23 take it with you?  24 A. Correct.  25 Q. And do you explain to the sales reps in advance</p>	<p style="text-align: right;">Page 36</p> <p>1 they carry around with them?  2 A. Yes.  3 Q. In each appointment?  4 A. Uh-huh.  5 Q. Is that a yes?  6 A. That's correct.  7 Q. Okay. And on that tablet, is there any other  8 client -- or, excuse me, product information or any  9 additional information that can be shared or disclosed  10 or discussed with the prospective new business?  11 A. Not to my knowledge. I don't have the tablet;  12 only the sales reps do. But if a customer wants to sign  13 up, whether you're on an appointment or you're out in  14 the field, you can draw up an agreement right there and  15 they can sign it.  16 Q. It makes it easier, I guess, for new cold call  17 business that's being solicited to sign up, right?  18 MS. WALDREP: Objection, misstates the  19 testimony.  20 Q. (BY MR. GOLDBERG) Is that accurate?  21 A. I mean, they can sign up right there, if they  22 want, that's correct.  23 Q. And does the sales rep tell them that?  24 A. Yes.  25 Q. Is that part of the recommended approach?</p>
<p style="text-align: right;">Page 35</p> <p>1 in your training of what the purpose of the one call  2 close sheet is and how to fill it out and what to do?  3 A. Well, the process has changed several times.  4 So, no, I don't.  5 Q. So the one call close sheet process has  6 changed?  7 A. Yes.  8 Q. Okay. When did it change?  9 A. About a month ago, approximately.  10 Q. What happened?  11 A. We were given tablets. The sales reps were  12 given tablets, so they no longer need the forms.  13 Q. Oh, I see. It's electronic.  14 A. Yeah. They can sign the tablet right there.  15 Q. I mean, we're here in Austin. You'd think  16 they'd be electronic anyway, right?  17 So other than the change from the hard  18 copy one call close sheet to the now tablet, one call  19 close tablet, have there been any other changes in the  20 way that sales reps are to approach cold call new  21 business clients?  22 A. No.  23 Q. And that one call close tablet that they now --  24 do they actually carry around like a -- what do you call  25 it? My wife has one. The portable tablet, is that what</p>	<p style="text-align: right;">Page 37</p> <p>1 A. No, because most of our business is obtained on  2 appointments that have been previously set.  3 Q. Okay. But appointments that have not been  4 previously set, that would not be the same as a cold  5 call, would it?  6 A. Well, you may have set the appointment cold  7 calling, so there's --  8 Q. Oh, okay. But if you don't have a preset  9 appointment, then, otherwise, it's cold calling?  10 A. It's -- yes.  11 Q. Okay.  12 A. That's correct.  13 Q. Anything else about what is said or done during  14 that initial discussion with a prospective new  15 customer --  16 A. No.  17 Q. -- on a cold call?  18 A. No.  19 Q. And other than taking this tablet that the  20 sales reps have, do the sales reps take anything else  21 with them, other than maybe a business card?  22 A. No.  23 Q. Okay. And when you go on these -- do you still  24 go on these training sessions with sales reps to  25 introduce them on how to do cold calling?</p>



<p style="text-align: right;">Page 38</p> <p>1 A. Yes.</p> <p>2 Q. And do you critique them?</p> <p>3 A. Yes.</p> <p>4 Q. And as part of your critique, do you ever</p> <p>5 suggest to them in this particular case you should have</p> <p>6 asked for the close because the client or potential</p> <p>7 client wanted more information and they wanted to sign</p> <p>8 up or --</p> <p>9 A. No. It's more of an information-gathering</p> <p>10 process and ultimately trying to set an appointment.</p> <p>11 You know, the odds of you obtaining the business are</p> <p>12 better with a face-to-face appointment with the</p> <p>13 decision-maker, because we don't -- you know, we're not</p> <p>14 barging in or disrespecting anybody's time. That's why</p> <p>15 we ask for the appointment. You know, you don't want to</p> <p>16 put pressure on anybody. It's a pretty casual process,</p> <p>17 but I do critique them in asking the right questions.</p> <p>18 Q. Okay. And was this -- the same process that</p> <p>19 you've just described in terms of cold calling and what</p> <p>20 the sales reps should do, is that what was expected</p> <p>21 during 2016?</p> <p>22 A. Yes.</p> <p>23 Q. Did you notice any change in the goals or</p> <p>24 expectations in terms of cold calling on customers after</p> <p>25 Charter Communications merged with Time Warner?</p>	<p style="text-align: right;">Page 40</p> <p>1 you can partner with and obtain new business.</p> <p>2 Q. Well, let me be more specific. Are there any</p> <p>3 PSU expectations on a daily basis?</p> <p>4 A. Well, if you -- if you do the math, you know,</p> <p>5 you want to get two per day to hit your number in a</p> <p>6 20-day selling month to get to 30 PSUs.</p> <p>7 Q. All right. And in order to get a PSU, to get</p> <p>8 two PSUs in a day if you're cold calling 30 or 40 new</p> <p>9 businesses, to get two PSUs, is that per day, the</p> <p>10 expectation?</p> <p>11 A. Well, if you -- if you want to get a deal every</p> <p>12 day. You know, you don't get one every day, but</p> <p>13 sometimes you'll get six in one day and then you'll go</p> <p>14 two days. So the general rule of thumb, you know, you</p> <p>15 would want to do two per day. That's what we coach on.</p> <p>16 And it's not a requirement, but that's what we would</p> <p>17 coach on.</p> <p>18 Q. And when you say two PSUs, that's getting a</p> <p>19 deal, right?</p> <p>20 A. Correct.</p> <p>21 Q. And when we say getting two deals a day, does</p> <p>22 that mean cold calling and you get the deal that day?</p> <p>23 A. No. You would get that deal, more than likely,</p> <p>24 in your funnel, in your funnel tracker.</p> <p>25 Q. Okay. And is it possible to get a PSU the same</p>
<p style="text-align: right;">Page 39</p> <p>1 A. No, I wouldn't say so.</p> <p>2 Q. What is a PSU?</p> <p>3 A. A PSU is one line of business, whether it be</p> <p>4 internet, cable TV or telephone.</p> <p>5 Q. Do those initials stand for something?</p> <p>6 A. Yeah. We're asked that all the time. And all</p> <p>7 I can think of is that the U stands for unit. I don't</p> <p>8 know what the PS stands for.</p> <p>9 Q. And can you tell me what the goals or</p> <p>10 expectations are for AE1 and AE2 sales representatives</p> <p>11 under your supervision, the expectations on how many</p> <p>12 cold calls they should make in a day?</p> <p>13 A. Well, we recommend, you know, anywhere from 20</p> <p>14 to 30. And cold calls can be, you know, a door knock or</p> <p>15 a phone call. It's really up to the rep what they're</p> <p>16 comfortable with, you know, on a daily basis, however</p> <p>17 they feel they can obtain new business and hit their</p> <p>18 number.</p> <p>19 Q. Okay. And are there any other stated goals to</p> <p>20 the sales representatives of the 30 cold calls, either</p> <p>21 door knocking or telephone cold calling?</p> <p>22 A. It's just activity. You know, we want to see</p> <p>23 activity so that they succeed, whether that activity be</p> <p>24 cold calling or attending networking events or going to</p> <p>25 an install to potentially meet a third-party vendor that</p>	<p style="text-align: right;">Page 41</p> <p>1 day that you make the cold call?</p> <p>2 A. It is, yes.</p> <p>3 Q. And are there any goals or expectations in that</p> <p>4 regard?</p> <p>5 A. No.</p> <p>6 Q. Okay. So as I understand it, are there</p> <p>7 expectations or goals of two PSUs per day?</p> <p>8 A. There's not an expectation of it. You don't</p> <p>9 want to go two consecutive days without at least two</p> <p>10 PSUs. And, again, this is all to hit your number to get</p> <p>11 you to 100 percent. But there is no expectations due to</p> <p>12 the standard of performance that we have.</p> <p>13 Q. And of the sales representatives that have been</p> <p>14 replaced, were any of those terminated?</p> <p>15 A. No.</p> <p>16 Q. Did they all resign?</p> <p>17 A. Yes.</p> <p>18 Q. Meghan Franco, do you know where she is today?</p> <p>19 A. I don't.</p> <p>20 Q. And it's your testimony she resigned?</p> <p>21 A. Yes.</p> <p>22 Q. And when did she resign?</p> <p>23 A. Maybe February or March of this year. I don't</p> <p>24 remember the exact month.</p> <p>25 Q. Did she tell you she was resigning?</p>

<p style="text-align: right;">Page 66</p> <p>1 that -- that it was a valid concern and that I would</p> <p>2 look into it.</p> <p>3 Q. Okay. If we then turn to Bates stamp 236 of</p> <p>4 Exhibit 1.</p> <p>5 A. Okay.</p> <p>6 Q. This is an e-mail from you dated July 8th,</p> <p>7 2016, the same day, at it looks like 6:08 p.m.</p> <p>8 A. 6:08 p.m., yes.</p> <p>9 Q. And you responded to Mr. Fadness. In the</p> <p>10 second paragraph that you state, I understand your</p> <p>11 concerns and they are valid, right?</p> <p>12 A. Yes. I was referencing his concern. That's</p> <p>13 correct.</p> <p>14 Q. His concerns as discussed in his July 8th,</p> <p>15 2016, e-mail to you, right?</p> <p>16 A. That's correct.</p> <p>17 Q. Okay. So after you sent Mr. Fadness this</p> <p>18 e-mail acknowledging his concerns and validating his</p> <p>19 concerns and you, as a supervisor, wanted to act on</p> <p>20 those concerns, tell me specifically what you did.</p> <p>21 A. Well, I did a number of things. I don't recall</p> <p>22 the order in which they were done. But I reached out to</p> <p>23 Richard to express Jeff's concern, and at that point</p> <p>24 we -- I believe we got -- you know, eventually got human</p> <p>25 resources involved. I don't remember the time frame</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. All right. And the issue to be investigated</p> <p>2 was the ability of the sales representatives to make</p> <p>3 cold calls on businesses that had no solicit signs?</p> <p>4 MS. WALDREP: Objection; misstates the</p> <p>5 testimony.</p> <p>6 Q. (BY MR. GOLDBERG) Well, you tell me. What was</p> <p>7 the nature of the investigation?</p> <p>8 A. I think the -- the -- the issue, as a whole,</p> <p>9 was rather not -- cold calling, door knocking, in</p> <p>10 general, was not abiding by the law. I didn't see it as</p> <p>11 anything that had to do with a no solicitation sign</p> <p>12 whatsoever.</p> <p>13 Q. So you didn't understand that Mr. Fadness was</p> <p>14 concerned about cold calling businesses with no solicit</p> <p>15 signs?</p> <p>16 A. That was one of two concerns. The first</p> <p>17 concern would be cold calling in general.</p> <p>18 Q. Okay. So you understood Mr. Fadness' concerns</p> <p>19 to be, number one, cold calling in general?</p> <p>20 A. Uh-huh.</p> <p>21 Q. Cold calling door-to-door?</p> <p>22 A. Correct.</p> <p>23 Q. And the second concern that you understood</p> <p>24 Mr. Fadness to have was cold calling door-to-door</p> <p>25 unsolicited, where there's a no solicit sign?</p>
<p style="text-align: right;">Page 67</p> <p>1 that that happened, but HR was definitely involved.</p> <p>2 Q. Okay. And did you ever tell Mr. Fadness that</p> <p>3 if the door knocking, cold calling was a concern, that</p> <p>4 he could just make phone calls instead?</p> <p>5 A. I believe, yes, I did. I believe at some point</p> <p>6 I did say that.</p> <p>7 Q. At what point did you say that?</p> <p>8 A. I don't remember when that was. I don't know</p> <p>9 if it was, you know, before or after this. I can't</p> <p>10 recall. But I -- but I did tell him due to the fact</p> <p>11 that his territory was so vast and went all the way to</p> <p>12 I-10, you know, it gave him the ability to still do his</p> <p>13 job and made the decision, you know, to allow him to do</p> <p>14 that while -- while we investigated his concern.</p> <p>15 Q. So let me make sure I understand what you've</p> <p>16 just testified to. You're saying that you advised</p> <p>17 Mr. Fadness that he did not have to make door-to-door</p> <p>18 cold calls?</p> <p>19 A. Well, he had -- he had asked -- from what I</p> <p>20 recall, he had asked if he could make cold calls via the</p> <p>21 phone. And, of course, I'm going to say yes to that.</p> <p>22 Q. And did you tell him that he could do that</p> <p>23 until these issues were investigated?</p> <p>24 A. I believe I would have said that. I don't</p> <p>25 recall exactly, but --</p>	<p style="text-align: right;">Page 69</p> <p>1 A. That is correct.</p> <p>2 Q. Okay. So those were the two issues and</p> <p>3 concerns that you felt Mr. Fadness had?</p> <p>4 A. That is correct.</p> <p>5 Q. And so to alleviate those concerns, it's your</p> <p>6 testimony that you responded to Mr. Fadness' request to</p> <p>7 make cold calls over the phone?</p> <p>8 A. That's correct.</p> <p>9 Q. And did you convey that in an e-mail to</p> <p>10 Mr. Fadness?</p> <p>11 A. I don't recall.</p> <p>12 Q. Okay. So that dealt with the cold call</p> <p>13 door-to-door issue. He could then call over the phone</p> <p>14 as opposed to in person. But then there was the</p> <p>15 outstanding issue of cold calling door-to-door when</p> <p>16 there's a no solicit sign, right?</p> <p>17 A. Correct.</p> <p>18 Q. So what was the resolution of -- or let me back</p> <p>19 up. Was there an investigation into that issue, as far</p> <p>20 as you know?</p> <p>21 A. Yes.</p> <p>22 Q. What was the nature of the investigation?</p> <p>23 A. The nature of the investigation was to</p> <p>24 determine if it was okay to, in fact, still go into a</p> <p>25 business that had a no solicitation sign on it. Other</p>



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<p style="text-align: right;">Page 94</p> <p>1 Q. And after that, if you turn over now to Bates 2 stamp 242, it appears you then respond to that e-mail 3 and you send an e-mail to Mr. Hennings and Ms. Shumway 4 saying, Thanks to all for your assistance. I will call 5 Jametra, right? 6 A. Uh-huh. 7 Q. That's Bates stamp 242 at the bottom. 8 A. That's correct. 9 Q. All right. So now -- did you find it? 10 A. Uh-huh. 11 Q. So that brings us up to December 2nd, 2016. 12 And you state that you're going to contact Jametra. 13 That's Ms. Shanks, right? 14 A. That's correct. 15 Q. And her position is what? 16 A. Well, at this point if he doesn't want to be 17 here, I'm trying to figure out how to help accept his 18 resignation. So I have turn to HR. That is where 19 Jametra works, in HR. And from what I can remember, her 20 position was that we need to either get a letter of 21 resignation, which I don't recall if one was ever sent 22 in an e-mail, or he has to do it over the phone. And I 23 believe there wasn't one sent in an e-mail, which is why 24 we had to call over the phone and accept it that way. 25 That's -- that's really all I remember about that.</p>	<p style="text-align: right;">Page 96</p> <p>1 that conversation and who said it. 2 A. I'm assuming at this point Jeff is back from 3 FMLA. I don't recall exactly. But our -- the phone 4 call went as follows, the best of my knowledge, was that 5 we addressed his concern about no soliciting and I had 6 mentioned to him or Jametra or myself -- I don't 7 remember who -- that, you know, door knocking is -- is 8 part of the day-to-day activity within Charter and it's 9 one of the components to doing your job. You know, 10 we're not going to physically force anybody to do it, 11 but it is a component of the job. And if you're not 12 willing to do that, then, you know, you're probably not 13 going to be successful, especially if you don't have 14 referral partners. But that was what was said, and he 15 decided to -- to leave. 16 Q. Okay. And how do you recall in the discussion 17 that you say you addressed his concern regarding the no 18 soliciting? 19 A. Well, I -- I believe that was the -- since he 20 went out on FMLA, I wasn't able to have any contact with 21 him whatsoever. So anything that transpired while he 22 was out was relayed to him on this phone call, because 23 that was the first time he was allowed to even speak to 24 anybody being that he was on FMLA. And so that's what 25 was relayed to him and that was pretty much -- you know,</p>
<p style="text-align: right;">Page 95</p> <p>1 Q. So to set the table here, I understand a 2 conversation took place on December 6th, 2016, with you 3 on the phone? 4 A. Uh-huh. 5 Q. Mr. Fadness on the phone and who else? Was it 6 Ms. Shanks on the phone or Ms. Kodama? 7 A. I don't remember the exact day. It was -- it 8 was probably Jametra, yes, Ms. Shanks, uh-huh. 9 Q. All right. So you're on the phone, Ms. Shanks 10 is on the phone and Mr. Fadness is on the phone? 11 A. That's correct. 12 Q. Before you made the call, did you review any 13 materials? Did you talk to anybody? Did you discuss 14 strategy on how you would approach the call? Any 15 preliminary work done before you made the call? 16 A. I don't think so, because it was just a call to 17 accept his resignation. I don't -- I don't recall. You 18 know, in my mind, I don't think there's anything to 19 prepare for, you know. I don't write the policies. I 20 just follow them. And so I wouldn't have done any 21 preparation -- 22 Q. Okay. 23 A. -- other than setting a date and time with 24 Jametra. 25 Q. Tell me everything you recall being said during</p>	<p style="text-align: right;">Page 97</p> <p>1 pretty much it. 2 Q. Well, my question is: How was his concern 3 addressed during that call about the no soliciting? 4 A. I don't recall. I probably told him what Ryan 5 Hennings had said, that, you know, you can go in, but if 6 you're asked to leave, you've got to leave. 7 Q. Okay. 8 A. That's really all I remember. 9 Q. All right. So after December 7th -- excuse me. 10 After December 6th, 2016, you have the conversation. 11 December 7th, 2016, you sent Ms. Shumway an e-mail at 12 the top of Bates stamp 242. 13 A. Uh-huh. 14 Q. It says, The call took place last night at 15 8:00 p.m. Do you see that? 16 A. Uh-huh. 17 Q. So if that helps you refresh your recollection 18 it did, in fact, occur on December 6th, right? 19 A. Okay. Correct. 20 Q. Okay. So you were then expecting Mr. Fadness' 21 letter of resignation based on this e-mail, right? 22 A. Okay. Uh-huh. 23 Q. So if we turn the page to Bates stamp 241, 24 bottom of the page, it appears you then sent Ms. Shanks 25 an e-mail on December 8th, 2016, saying that Mr. Fadness</p>

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<p style="text-align: right;">Page 110</p> <p>1 Q. Okay. If you had placed Mr. Fadness on 2 documented counseling, where would that be? 3 A. Human resources. 4 Q. Would you have also kept it in your folder? 5 A. I should have, yes. It would have been in my 6 folder. I just don't recall if I -- he was on my team 7 for a short period, so I don't recall if -- I don't 8 recall. 9 Q. Okay. So if we look down at the Description of 10 the Violation/Conduct/Performance, it gives a breakdown 11 of performance. Do you see that? 12 A. Yes. 13 Q. And September has zero percent. Do you see 14 that? 15 A. Yes. 16 Q. So what does that zero percent mean? 17 A. That means zero percent of attainment. 18 Q. Of sales or -- 19 A. Of sales, uh-huh. 20 Q. Okay. And if Mr. Fadness had returned to work, 21 would he have had the ability to improve his performance 22 and bring the numbers up? 23 A. That's a great question. I don't know the 24 answer to that. 25 Q. Why not?</p>	<p style="text-align: right;">Page 112</p> <p>1 if there was or not. 2 Q. Would you turn to Bates stamp 566? And this is 3 part of his performance improvement plan. It says, 4 Measurable/Tangible Improvement Goals and Expectations. 5 Do you see that? 6 A. Yes. 7 Q. And the Performance Criteria. Do you see that? 8 A. Uh-huh. 9 Q. Is that correct? 10 A. Yes. 11 Q. And you filled this in, right? 12 A. I believe so, yes. 13 Q. And it says, Field Cold Calls per day: 30. 14 What does that mean? 15 A. That means cold calls out in the field. 16 Q. That means door knocking -- 17 A. Correct. 18 Q. -- cold calling businesses, whether or not they 19 have no solicit signs or not, right? 20 A. Correct. 21 Q. Appointments per day, what does that mean? 22 A. Attend two appointments per day. 23 Q. All right. And it says, Proposals per day: 3. 24 What does that mean? 25 A. That's -- that's sending out three proposals</p>
<p style="text-align: right;">Page 111</p> <p>1 A. That would have to be determined by HR. I 2 don't know what the policy is regarding coming back from 3 FMLA when you've already been on corrective action. 4 Q. Well, this document was never issued to him, 5 was it? 6 A. It must not have been, because if it was 7 signed, I would have it filed away with a signature. 8 And I believe he went out on FMLA prior to ever signing 9 this. 10 Q. Okay. And was there any -- to your knowledge, 11 was there any research done into the possibility of 12 finding Mr. Fadness another position while he was out on 13 FMLA? 14 A. No, not while he was out on FMLA. No. 15 Q. There was no discussion of that, to your 16 recollection? 17 A. No. 18 Q. Okay. Was there a discussion about moving him 19 after he returned from FMLA? 20 A. No. 21 Q. Were there positions available for which 22 Mr. Fadness could have transferred to? 23 A. No. If there were, I believe he may have had 24 the opportunity to speak to those hiring managers if 25 there was a position open, but I don't -- I don't recall</p>	<p style="text-align: right;">Page 113</p> <p>1 per day, new proposals to new customers. 2 Q. Okay. And Closed per day: 2 PSUs and \$125, 3 what does that mean? 4 A. That's two PSUs. It should say and/or. And, 5 again, this document wasn't approved by HR, so it was 6 never delivered. But the average RPU, which is average 7 revenue per unit, is \$75, roughly, or 70, you know, 8 somewhere around there. So it's either two PSUs or 125 9 in revenue of what that would equal to. 10 Q. All right. Did you go out on sales calls with 11 Mr. Fadness? 12 A. No. 13 Q. Did you offer to? 14 A. We ran some appointments together. I believe I 15 did. 16 Q. Okay. And do you ever recall having any 17 discussions with Mr. Fadness about how many accounts he 18 had in his territory? 19 A. I do, yes. 20 Q. What do you recall in that regard? 21 A. I recall him saying that there was a lot of 22 current customers in his territory. 23 Q. Do you recall Mr. Fadness more specifically 24 saying that he had about 40 prospective accounts in his 25 territory?</p>